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UNITED STATE DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

QUAD/TECH INC., a Wisconsin Corp.,
Plaintiff,

v.

Q.I. PRESS CONTROLS B.V. of The
Netherlands, AND
Q.I PRESS CONTROLS NORTH AMERICA
LTD., INC., a Rhode Island Corp.,
Defendants.

Civil Action No.: CV 10-2243 CRB

**DECLARATION OF FREDERICK
A. TECCE IN SUPPORT OF
QUAD/TECH INC.'S OPPOSITION
TO DEFENDANT QIPC-NA'S
MOTION TO DISMISS OR
TRANSFER**

Date: November 5, 2010
Time: 10:00 a.m.
Dept.: Courtroom 8, 19th Floor
Judge: Honorable Charles R. Breyer

1 I, Frederick A. Tecce declare the following:

2 1. I am a partner in the law firm MCSHEA\TECCE, P.C. located in Philadelphia,
3 Pennsylvania. I have been admitted *pro hac vice*, (DE 35) for plaintiff Quad/Tech,
4 Incorporated ("Quad/Tech") in the above captioned case.

5 2. I am over eighteen (18) years of age. I have personal knowledge of the facts
6 set forth herein, and if called to testify, could and would swear to the statements herein. I
7 make this declaration in support of the opposition of Quad/Tech to the motion to dismiss
8 the amended complaint in this case or alternate motion to transfer venue filed by defendant
9 Q.I. Press Controls North America, Inc. ("QIPC").

10 3. A true and correct copy of the April 1, 2010 order, docketed on April 6, 2010 as
11 docket entry number 100, issued by the Honorable Eduardo C. Robreno in *Quad/Tech, Inc. v.*
12 *Q.I. Press Controls B.V., et al.*, No. 09-2561-ER, U.S.D.C., E.D. Pa. ("Pennsylvania Case") is
13 attached hereto as Exhibit A.

14 4. A true and correct copy of the recent Federal Case Management Statistics
15 regarding the U.S. District Court - Judicial Caseload Profile Report for the Northern District
16 of California from the web site www.uscourts.gov is attached hereto as Exhibit B.

17 5. A true and correct copy of the recent Federal Case Management Statistics
18 regarding the U.S. District Court - Judicial Caseload Profile Report for the Eastern District of
19 Pennsylvania from the web site www.uscourts.gov is attached hereto as Exhibit C.

20 6. This case and the Pennsylvania Case involve different patent claims. This case
21 asserts infringement of the claims of United States Patent No. 7,032,508 ("the '508 Patent").
22 The '508 Patent was never in dispute in the Pennsylvania Case. This case also asserts
23 infringement against the defendants of certain claims of United States Patent No. 5,412,577
24 ("the '577 Patent"). There is no overlap between the claims of the '577 Patent at issue in this
25 case and the claims of the '577 Patent at issue in the Pennsylvania Case. Only the claims of
26 the '577 Patent dealing with camera positioning technology are at issue in this case while
27 other claims dealing with register control technology of the '577 Patent are at issue in the
28 Pennsylvania Case.

1 7. This case and the Pennsylvania Case involve different products. This case
2 involves QIPC's color control product, the Intelligent Density Control System ("IDS"). The
3 IDS at issue here is a completely different product than the markless register control device
4 ("mRC") at issue in the Pennsylvania Case. The products and technology at issue in the
5 Pennsylvania case involve registration control, which is the process which controls the
6 spatial relationship between dots of various colors which must precisely placed on the
7 surface (or web) with respect to each other. The products at issue in this case control color
8 density, which is a completely different process for insuring that correct colors are created
9 by controlling the amount of the respective inks placed on the paper (or web).

10 8. While QIPC raised invalidity of the '577 Patent as an affirmative defense in the
11 Pennsylvania Case, it did nothing to pursue that defense during the several months of
12 discovery on the infringement claim in that case, and it did not produce any evidence or
13 expert report addressing invalidity of that patent in support of its opposition to
14 Quad/Tech's preliminary injunction motion.

15 9. In the Pennsylvania Case, the court ordered a stay solely due to Quad/Tech's
16 appeal of preliminary injunction rulings about the defendants' mRC register control
17 product. That product is not at issue here. As such, neither the pending appeal nor the
18 facts underlying it will have any impact on this case. Notably, the ultimate construction of
19 the claim term "image" (the only term construed in the Pennsylvania Case) has no bearing
20 on this case. The district court in Philadelphia construed the term image as "the actual
21 printed image (i.e. a scene or picture) excluding registration marks." April 1, 2010 Order
22 Denying Preliminary Injunction (DE 99) at 21. Although Quad/Tech disagrees with that
23 interpretation and has appealed that issue to the United States Court of Appeals for the
24 Federal Circuit, the accused IDS system meets that definition in that it examines the "actual
25 printed image (i.e. a scene or picture)" and does NOT examine the registration marks.

26 10. At the time Quad/Tech filed its motion for leave to file a second amended
27 complaint in the Pennsylvania Case it had a reasonable expectation that QIPC would
28 consent to personal jurisdiction in Pennsylvania on the proposed claim. Indeed, while

1 QIPC opposed Quad/Tech's motion, it did not challenge Quad/Tech's proposed claim on
2 lack of personal jurisdiction grounds.

3 11. When Quad/Tech commenced this suit, it could not have brought this case
4 against QIPC in a Pennsylvania court since: QIPC was not a Pennsylvania corporation;
5 QIPC did not have a Pennsylvania office; QIPC did not transact a continuous and
6 substantial amount of business in Pennsylvania. Quad/Tech is not aware of any IDS color
7 density control sale in the Eastern District of Pennsylvania judicial district. Events giving
8 rise to jurisdiction in this case occurred exclusively in the Northern District of California
9 judicial district, including the sale of the IDS color density control product in Fremont,
10 California.

11 12. The Pennsylvania Case involves Lanham Act, common law unfair
12 competition, and tortious interference with prospective contracts claims against QIPC and
13 its Pennsylvania distributor for which discovery has not begun.

14 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing
15 statements are true and correct.

16
17 Dated: October 15, 2010

By: _____/s/_____
Frederick A. Tecce

EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

QUAD/TECH, INC.	:	CIVIL ACTION
	:	NO. 09-2561
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
	:	
Q.I. PRESS CONTROLS B.V.,	:	
et. al,	:	
	:	
Defendants.	:	

O R D E R

AND NOW, this **1st** day of **April, 2010**, it is hereby **ORDERED** that Plaintiff's motion for preliminary injunction (doc. no. 8) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to file a second amended complaint (doc. no. 92) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's motion for an adverse inference and sanctions (doc. no. 94) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to narrow its claim construction (doc. no. 97) is **DENIED**.

IT IS FURTHER ORDERED that Plaintiff's motion for leave to file a reply brief in support of its motion for leave to file a second amended complaint (doc. no. 98) is **DENIED**.

AND IT IS SO ORDERED.

s/Eduardo C. Robreno
EDUARDO C. ROBRENO, J.

EXHIBIT B

U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
CALIFORNIA NORTHERN				2009	2008	2007	2006	2005	2004	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			7,576	7,295	7,970	8,683	6,362	6,727	U.S.	Circuit
	Terminations			7,403	7,402	6,777	6,983	6,966	6,471		
	Pending			8,579	8,882	9,005	8,157	6,557	7,267		
	% Change in Total Filings	Over Last Year		3.9						44	11
		Over Earlier Years			-5.0		-12.8	19.1	12.6	13	5
Number of Judgeships				14	14	14	14	14	14		
Vacant Judgeship Months**				22.0	5.9	.0	.0	.0	.0		
ACTIONS PER JUDGESHIP	FILINGS	Total	541	521	569	620	455	480	19	6	
		Civil	433	441	505	558	390	413	15	4	
		Criminal Felony	64	42	33	37	39	44	49	10	
		Supervised Release Hearings**	44	38	31	25	26	23	18	7	
	Pending Cases			613	634	643	583	468	519	10	2
	Weighted Filings**			607	592	624	621	543	581	9	4
	Terminations			529	529	484	499	498	462	20	5
	Trials Completed			6	6	8	8	10	10	93	14
MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	6.9	11.2	12.4	11.2	12.6	11.1	17	3	
		Civil**	9.4	7.7	6.7	7.4	9.8	8.2	57	11	
	From Filing to Trial** (Civil Only)			24.5	30.0	24.9	25.0	28.0	22.5	36	4
OTHER	Civil Cases Over 3 Years Old**	Number	1,220	488	393	528	530	430			
		Percentage	15.7	6.0	4.7	7.3	9.5	6.9	86	15	
	Average Number of Felony Defendants Filed Per Case			1.2	1.3	1.2	1.5	1.5	1.4		
	Jurors	Avg. Present for Jury Selection	77.51	64.09	53.81	59.09	55.21	61.19			
		Percent Not Selected or Challenged	48.5	42.1	41.9	43.2	31.0	48.9			

2009 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	6059	101	290	1526	99	214	612	582	349	448	753	92	993
Criminal*	888	9	154	357	103	104	30	25	9	19	31	28	19

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

** See "Explanation of Selected Terms."

EXHIBIT C

U.S. DISTRICT COURT - JUDICIAL CASELOAD PROFILE

				12-MONTH PERIOD ENDING SEPTEMBER 30							
PENNSYLVANIA EASTERN				2009	2008	2007	2006	2005	2004	Numerical Standing	
OVERALL CASELOAD STATISTICS	Filings*			48,671	40,355	20,809	32,932	17,435	16,198	U.S.	Circuit
	Terminations			40,960	9,064	11,331	29,043	15,856	12,754		
	Pending			65,312	57,548	25,758	15,696	11,603	9,930		
	% Change in Total Filings	Over Last Year		20.6						3	1
		Over Earlier Years				133.9	47.8	179.2	200.5	1	1
Number of Judgeships				22	22	22	22	22	22		
Vacant Judgeship Months**				3.7	22.4	.0	7.0	12.0	34.6		
ACTIONS PER JUDGESHIP	FILINGS	Total	2,213	1,834	946	1,497	793	737	1	1	
		Civil	2,164	1,786	897	1,454	747	694	1	1	
		Criminal Felony	32	32	32	28	31	32	85	5	
		Supervised Release Hearings**	17	16	17	15	15	11	64	1	
	Pending Cases			2,969	2,616	1,171	713	527	451	1	1
	Weighted Filings**			351	371	341	386	611	495	69	4
	Terminations			1,862	412	515	1,320	721	580	1	1
	Trials Completed			19	14	12	13	15	12	49	4
	MEDIAN TIMES (months)	From Filing to Disposition	Criminal Felony	14.3	12.5	11.3	12.8	11.3	11.6	89	5
Civil**			13.2	4.8	5.7	1.0	1.0	1.0	90	5	
From Filing to Trial** (Civil Only)			22.7	26.0	19.4	18.0	20.8	16.0	30	1	
OTHER	Civil Cases Over 3 Years Old**	Number	8,839	807	577	450	315	292			
		Percentage	13.8	1.4	2.3	3.0	2.9	3.3	84	4	
	Average Number of Felony Defendants Filed Per Case			1.4	1.5	1.4	1.4	1.5	1.4		
	Jurors	Avg. Present for Jury Selection	73.42	73.17	69.09	73.44	67.73	74.08			
		Percent Not Selected or Challenged	36.5	37.0	40.9	40.9	39.0	43.9			

2009 CIVIL AND CRIMINAL FELONY FILINGS BY NATURE OF SUIT AND OFFENSE

Type of	TOTAL	A	B	C	D	E	F	G	H	I	J	K	L
Civil	47606	286	41608	1007	54	112	352	903	862	141	1373	108	800
Criminal*	689	5	173	74	189	101	47	26	17	10	13	14	20

* Filings in the "Overall Caseload Statistics" section include criminal transfers, while filings "By Nature of Offense" do not.

** See "Explanation of Selected Terms."

**Declaration of Frederick A. Tecce In Support of Quad/Tech Inc.'s Opposition
to Defendant QIPC-NA's Motion to Dismiss or Transfer
(continued)**

Attestation of Concurrence

I, Marc N. Bernstein, as the ECF user and filer of this document, attest that concurrence in the filing of this document has been obtained from Frederick A. Tecce, the above signatory.

Dated: Oct. 15, 2010

_____/s/_____
Marc N. Bernstein